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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 MICHAEL BURCIAGA, ) CASE NO. CV 17-3830-JVS (PJW)  
11 )  
12 Petitioner, ) ORDER ACCEPTING REPORT AND  
13 ) ADOPTING FINDINGS, CONCLUSIONS,  
14 v. ) AND RECOMMENDATIONS OF UNITED  
15 ) STATES MAGISTRATE JUDGE, AND  
16 WARDEN, CENTINELA STATE PRISON, ) GRANTING CERTIFICATE OF  
17 ) APPEALABILITY IN PART  
18 Respondent. )  
19 \_\_\_\_\_ )

20 Pursuant to 28 U.S.C. Section 636, the Court has reviewed the  
21 Petition, records on file, and the Report and Recommendation of the  
22 United States Magistrate Judge. Further, the Court has engaged in a  
23 *de novo* review of those portions of the Report to which Petitioner and  
24 Respondent have objected. The Court accepts the Report and adopts the  
25 findings, conclusions, and recommendations of the Magistrate Judge.

26 Further, for the reasons stated in the Report and  
27 Recommendation, the Court finds that, on all his claims but one,  
28 Petitioner has not made a substantial showing of the denial of a  
constitutional right and, therefore, a certificate of appealability is  
denied. See 28 U.S.C. § 2253(c)(2); Fed. R. App. P. 22(b); *Miller-El*  
*v. Cockrell*, 537 U.S. 322, 336 (2003). The Court grants a certificate  
of appealability with respect to the issue of whether there was

1 sufficient evidence to establish that Petitioner acted with  
2 premeditation and deliberation when he shot at Torres.

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4 DATED: December 4, 2018.



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7 JAMES V. SELNA  
8 UNITED STATES DISTRICT JUDGE  
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